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District of Hawaii

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Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CIVIL NO. 03-00657 SOM-BMK
)	
Plaintiff,	)	ORDER APPROVING REPORT OF
	)	COMMISSIONER, CONFIRMING
vs.	)	COMMISSIONER'S SALE OF
	)	PROPERTY AT PUBLIC AUCTION,
WALTER W. AHUNA; FRANCINE U.K.	)	DIRECTING DISTRIBUTION OF
AHUNA; MAUI COLLECTION	)	PROCEEDS, FOR DISPOSAL OF
SERVICE, INC.; DEPT. OF THE	)	PERSONAL PROPERTY AND FOR WRIT
ATTORNEY GENERAL, COLLECTIONS	)	OF POSSESSION; EXHIBIT "A"
UNIT, STATE OF HAWAII; REAL)	
PROPERTY TAX DIVISION,	)	Date: April 24, 2006
DEPARTMENT OF FINANCE, COUNTY	)	Time: 9:45 a.m.
OF MAUI,	)	Judge: Susan Oki Mollway
)	
Defendants.)	
)	

ORDER APPROVING REPORT OF COMMISSIONER,
CONFIRMING COMMISSIONER'S SALE OF PROPERTY
AT PUBLIC AUCTION, DIRECTING DISTRIBUTION
OF PROCEEDS, FOR DISPOSAL OF PERSONAL PROPERTY
AND FOR WRIT OF POSSESSION

The Motion for Confirmation of Sale, to Approve
Commissioner's Report, Distribution of Proceeds, Disposal of
Personal Property and for Writ of Possession filed herein by

Plaintiff United States of America came on for hearing before the Honorable Susan Oki Mollway, United States District Judge, in her courtroom, on April 24, 2006. Appearing on behalf of the United States was Thomas A. Helper, Assistant United States Attorney. Kyle Coffman, Commissioner, also appeared. No other party appeared. No oppositions were filed within the time allowed by Local Rule 7.4. After considering the Commissioner's Report filed herein and being fully advised in the premises, and good cause appearing therefor, the Court makes the following findings, to wit:

1. That Kyle Coffman, the Commissioner appointed by Order filed herein on December 13, 2004, to sell the mortgaged property referred to in said Order and described in the Complaint filed in this cause and hereinafter described, did make the report of the proceedings had under the said Order and the account of expenses incurred in connection therewith in the report; that the sale as reported by said Commissioner was legally made and fairly conducted; that no exceptions or objections have been filed or made to said Commissioner's Report of the sale or to the confirmation of said sale; that all of the matters and things set forth in said report are true; that said Order has, in all respects, been complied with by said Commissioner; and that the sale of the property to Edwin Caraang

("Purchaser") is proper and said price is fair and equitable and as high as any that can be obtained under the circumstances.

2. That the subject property foreclosed upon herein is described in Exhibit "A" attached hereto and made a part hereof.

3. That the amounts due plaintiff as of May 1, 2006, are as follows:

A) FSA Operating Loan No. 44-27:

Unpaid Principal	\$19,068.24
Unpaid Interest	<u>7,412.32</u>
 TOTAL DUE	 \$26,480.56

Plus interest at the daily rate of \$2.3509 from May 1, 2006, until the date of judgment, and interest will accrue thereafter at the legal rate until the indebtedness is paid in full.

B) FSA Operating Loan No. 44-28:

Unpaid Principal	\$69,438.44
Unpaid Interest	<u>26,673.69</u>
 TOTAL DUE	 \$96,112.13

Plus interest at the daily rate of \$9.5121 from May 1, 2006, until the date of judgment, and interest will accrue thereafter at the legal rate until the indebtedness is paid in full.

C) FSA Farm Ownership Loan No. 41-26:

Unpaid Principal	\$214,894.14
Unpaid Interest	<u>89,787.40</u>
 TOTAL DUE	 \$304,681.54

Plus interest at the daily rate of \$29.4376 from May 1, 2006, until the date of judgment, and interest will accrue thereafter at the legal rate until the indebtedness is paid in full. The unpaid principal includes the amount of \$375.00 advance(s) made by FSA for an appraisal.

D) FSA Operating Loan No. 44-29:

Unpaid Principal	\$36,409.62
Unpaid Interest	<u>13,935.41</u>
 TOTAL DUE	 \$50,345.03

Plus interest at the daily rate of \$4.9876 from May 1, 2006, until the date of judgment, and interest will accrue thereafter at the legal rate until the indebtedness is paid in full.

E) FSA Operating Loan No. 44-30:

Unpaid Principal	\$28,989.86
Unpaid Interest	<u>12,521.25</u>
 TOTAL DUE	 \$41,511.11

Plus interest at the daily rate of \$3.9712 from May 1, 2006, until the date of judgment, and interest will accrue thereafter at the legal rate until the indebtedness is paid in full.

F) RHS Loan:

Unpaid Principal	\$51,428.72
Unpaid Interest	15,435.55
Fees	3,122.78
Fee (interest)	<u>86.87</u>
 TOTAL DUE	 \$70,073.92

Daily interest accrual is \$12.3288, on the unpaid principal and \$0.7352, on the fees currently assessed, from May 1, 2006, until

the date of judgment, and interest will accrue thereafter at the legal rate until the indebtedness is paid in full.

As of May 1, 2006, interest credit recapture in the amount of \$12,093.79, is due and owing, and continues to accrue until paid.

4. Court costs are \$534.00.

5. That a fee of \$3,766.50, is a reasonable fee for the Commissioner for services as Commissioner; that the Commissioner incurred expenses of sale in the total amount of \$614.43, for legal notice publication costs and other costs as set forth in the Commissioner's Report and the Supplemental Declaration of Commissioner filed herein.

GOOD CAUSE APPEARING THEREFOR, it is hereby ORDERED, ADJUDGED AND DECREED:

1. That the Commissioner's Report filed herein be and the same is hereby in all respects ratified, approved and confirmed.

2. That in accordance with the Findings of Fact, Conclusions of Law and Order Granting Motion for Summary Judgment and for Interlocutory Decree of Foreclosure and for Deficiency Judgment entered herein on December 13, 2004, the sale of the subject property for the sum of \$650,000.00, to Edwin Caraang be and the same is hereby ratified, approved and confirmed, and that upon receipt of the full purchase price said Commissioner is

hereby ordered and directed to make good and sufficient conveyances thereto to the Purchaser or Purchaser's written order.

3. That the Commissioner be and hereby is allowed the sum of \$614.43, for expenses as Commissioner and a further sum of \$3,766.50, for services as Commissioner, in a total amount of \$4,380.93.

4. That out of the sum of \$650,000.00, received from the property sold, plus any rentals received, the Commissioner shall pay:

(a) To the appropriate authorities, the sum(s) necessary, if any, to pay delinquent real property taxes on the property, prorated to the date of closing;

(b) To himself, as Commissioner, the sum of \$614.43, as reimbursement for expenses of sale;

(c) To himself, as Commissioner, the sum of \$3,766.50, as the fee for services as Commissioner;

(d) To FSA, the following:

(i) FSA Operating Loan No. 44-27:

Unpaid Principal	\$19,068.24
Unpaid Interest	<u>7,412.32</u>
 TOTAL DUE	 \$26,480.56

Plus interest at the daily rate of \$2.3509 from May 1, 2006, until the date of judgment, and interest will accrue thereafter at the legal rate until the indebtedness is paid in full.

(ii) FSA Operating Loan No. 44-28:

Unpaid Principal	\$69,438.44
Unpaid Interest	<u>26,673.69</u>
 TOTAL DUE	 \$96,112.13

Plus interest at the daily rate of \$9.5121 from May 1, 2006, until the date of judgment, and interest will accrue thereafter at the legal rate until the indebtedness is paid in full.

(iii) FSA Farm Ownership Loan No. 41-26:

Unpaid Principal	\$214,894.14
Unpaid Interest	<u>89,787.40</u>
 TOTAL DUE	 \$304,681.54

Plus interest at the daily rate of \$29.4376 from May 1, 2006, until the date of judgment, and interest will accrue thereafter at the legal rate until the indebtedness is paid in full. The unpaid principal includes the amount of \$375.00 advance(s) made by FSA for an appraisal.

(iv) FSA Operating Loan No. 44-29:

Unpaid Principal	\$36,409.62
Unpaid Interest	<u>13,935.41</u>
 TOTAL DUE	 \$50,345.03

Plus interest at the daily rate of \$4.9876 from May 1, 2006, until the date of judgment, and interest will accrue thereafter at the legal rate until the indebtedness is paid in full.

(v) FSA Operating Loan No. 44-30:

Unpaid Principal	\$28,989.86
Unpaid Interest	<u>12,521.25</u>
 TOTAL DUE	 \$41,511.11

Plus interest at the daily rate of \$3.9712 from May 1, 2006, until the date of judgment, and interest will accrue thereafter at the legal rate until the indebtedness is paid in full.

(e) To RHS, the following:

(i) Unpaid Principal	\$51,428.72
Unpaid Interest	15,435.55
Fees	3,122.78
Fee (interest)	<u>86.87</u>
 TOTAL DUE	 \$70,073.92

Daily interest accrual is \$12.3288, on the unpaid principal and \$0.7352, on the fees currently assessed, from May 1, 2006, until the date of judgment, and interest will accrue thereafter at the legal rate until the indebtedness is paid in full.

(ii) As of May 1, 2006, interest credit recapture in the amount of \$12,093.79, is due and owing, and continues to accrue until paid.

(f) To Plaintiff, \$534.00, for court costs.

(g) To Defendants Walter W. Ahuna and Francine U.K. Ahuna, the remaining proceeds of sale.

5. Upon the Commissioner making the aforesaid conveyance and distributions, and the filing herein of the distribution statement and account conforming herewith, said

Commissioner shall be discharged from further duties and responsibilities as Commissioner.

6. That the defendants herein and all parties hereto and all persons claiming by, through or under said defendants and parties, shall be and are hereby forever barred of and from any and all right, title and interest and claims at law or in equity to the mortgaged property hereinbefore described, and every part thereof, except for liens for real property taxes and assessments lawfully imposed by governmental authorities against the property.

7. That a Writ of Possession shall be issued in favor of Purchaser herein.

8. That the Purchaser is authorized to dispose of any personal property, if any, which remains on the subject premises.

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9. That this order is entered as a final judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure as there is not just reason for delay.

DATED: Honolulu, Hawaii, _____.

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

/s/ Kyle Coffman

KYLE COFFMAN
Commissioner

/s/ Harry Yee

By _____
HARRY YEE
Assistant U.S. Attorney

Attorneys for Plaintiff
UNITED STATES OF AMERICA

DATED: Honolulu, Hawaii; May 12, 2006.



Susan Oki Mollway

Susan Oki Mollway
United States District Judge

USA v. Ahuna, et al.

Civil No. 03-00657 SOM-BMK

ORDER APPROVING REPORT OF COMMISSIONER, CONFIRMING COMMISSIONER'S SALE OF PROPERTY AT PUBLIC AUCTION, DIRECTING DISTRIBUTION OF PROCEEDS, FOR DISPOSAL OF PERSONAL PROPERTY AND FOR WRIT OF POSSESSION; EXHIBIT "A"